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ATTEMPTED SUICIDE AS EVIDENCE OF GUILT IN CRIMINAL CASES: THE LEGAL AND PSYCHOLOGICAL VIEWS

The secret which the murderer possesses soon comes to possess him He feels it beating at his heart, rising to his throat, and DEMANDING disclosure When suspicions from without begin to embarrass him, and the net of circumstances to entangle him, the fatal secret struggles with still greater violence to burst forth. It *must* be confessed! IT WILL be confessed! There is no refuge from confession, but suicide,—and suicide IS confession.¹

When we essay the task of accounting for suicide on any general grounds, we undertake a task that, from its very nature, is impossible of performance. The human mind is so wonderfully, yet so delicately, constructed, the human passions are so powerful, yet so varied, that it is idle for any one person to pretend to enter the consciousness of another, and account for the inner workings of that other mind This being true a jury never could be permitted to treat it [suicide] as evidence of guilt.²

Among the legal and sociological problems engendered by the act of self-destruction is the question of whether suicide by an accused should be considered evidence of his guilt. The origin of this conflict in American law can be traced to Daniel Webster's hypothesis about the criminal mind in *Commonwealth v. Knapp*.³ He argued that a murderer can be driven to suicide because of an unbearable sense of guilt and that his self-imposed punishment is tantamount to a full confession.⁴ Not until 1904, however, did an American court comment favorably on the admission of *attempted* suicide as evidence of guilt. In *State v. Jagers*,⁵ the suicidal act was characterized as an attempt to "escape further prosecution" and compared to flight from the area of the crime.⁶ Flight, along with several other "defendant acts," had long been considered admissible as a relevant factor bearing on the probability of guilt.⁷ The inferential chain employed to

1. Argument by Daniel Webster in *Commonwealth v. Knapp*, 26 Mass. 496 (1830). See 7 AMERICAN STATE TRIALS 395 (1916) for full text.

2. *State v. Coudotte*, 7 N.D. 109, 117, 72 N.W. 913, 916 (1897).

3. 26 Mass. 496 (1830).

4. See text accompanying note 1 *supra*.

5. 71 N.J.L. 281, 58 Atl. 1014 (1904).

6. *Id.* at 282, 58 Atl. at 1014.

7. On the subject of flight, see *People v. Stanley*, 47 Cal. 113 (1874); 1 WHARTON, CRIMINAL EVIDENCE § 139 (12th ed. 1955). Other acts of the defendant which are admissible on the same basis include: possession of dangerous weapons, *People v. Northcott*, 209 Cal. 639, 289 P. 634 (1930); possession of stolen property, *State v. Barnes*, 47 Ore. 592, 85 P. 998 (1906); evasion of arrest, *Commonwealth v. Spezzaro*, 250 Mass. 454,

justify admission of the evidence is the same in all cases: the act of the defendant is evidence of consciousness of guilt; consciousness of guilt is evidence of actual guilt.⁸

Prior to *Jagers* the only jurisdiction reporting on the matter had adopted an opposing view. In *State v. Coudotte*,⁹ the defendant attempted suicide while under confinement awaiting trial. Referring to the purported relationship between flight and suicide, the majority concluded:

One who flees does so, generally, for the purpose of avoiding punishment that follows from violated law. One who commits or attempts suicide seeks to avoid no punishment. He deliberately accepts the highest punishment that the law could possibly inflict,—death. Hence the very circumstance that raises the presumption of guilt from flight is absolutely wanting in suicide.¹⁰

Despite this cogent reasoning, all other jurisdictions commenting have distinguished the *Coudotte* case on factual grounds¹¹ and have uniformly admitted the evidence.¹²

If attempted suicide is admitted as an indication of guilt, it must meet the usual test of legal relevancy,¹³ viz., whether guilt of the substantive offense and proof of the suicidal attempt are so related that "one either taken by itself or in connection with other facts proves or renders probable the past, present, or future existence or non-existence of the other."¹⁴ A negative answer would indicate that the attempt should not be admitted;¹⁵ but, even if the evidence meets this preliminary test, it may still be precluded by any

146 N.E. 3 (1925); and suppression or destruction of evidence, *Hickory v. United States*, 160 U.S. 408 (1896).

8. 1 WHARTON, CRIMINAL EVIDENCE § 201 (12th ed. 1955); 2 WIGMORE, EVIDENCE § 276 (3d ed. 1940).

9. 7 N.D. 109, 722 N.W. 913 (1897). See text accompanying note 2 *supra*.

10. *State v. Coudotte*, 7 N.D. 109, 116, 72 N.W. 913, 915 (1897).

11. A North Dakota statute involved in the *Coudotte* case required corroborating evidence sufficient to link the defendant to commission of the crime. Later cases seized on this distinction, as well as the fact that the accused was an Indian, considered to be suicide-prone by nature when under confinement. See *State v. Bittner*, 209 Iowa 109, 227 N.W. 601 (1929); *State v. Painter*, 329 Mo. 314, 44 S.W.2d 79 (1931).

12. *George v. State*, 240 Ala. 632, 200 So. 602 (1941); *People v. Barrett*, 22 Cal. App. 780, 36 Pac. 520 (1913); *State v. Hargraves*, 62 Idaho 8, 107 P.2d 854 (1940); *People v. Duncan*, 261 Ill. 339, 103 N.E. 1043 (1913); *State v. Bittner*, 209 Iowa 109, 227 N.W. 601 (1929); *Commonwealth v. Goldenberg*, 315 Mass. 26, 51 N.E.2d 762 (1943); *State v. Painter*, 329 Mo. 314, 44 S.W.2d 79 (1931); *State v. Blancett*, 24 N.M. 433, 174 Pac. 207 (1937); *State v. Plunkett*, 62 Nev. 265, 149 P.2d 101 (1944); *State v. Exum*, 213 N.C. 16, 195 S.E. 7 (1939); *State v. Lawrence*, 196 N.C. 562, 146 S.E. 395 (1929); *Commonwealth v. Giacobbe*, 341 Pa. 187, 19 A.2d 71 (1941).

13. MCCORMICK, EVIDENCE 314 (1954); THAYER, EVIDENCE 269 (1898).

14. STEPHEN, EVIDENCE 4 (4th ed. 1885).

15. THAYER, EVIDENCE 264 (1898); 1 WIGMORE, EVIDENCE § 9 (3d ed. 1940).

of a number of exclusionary rules.¹⁶ The purpose of this note is to test the advisability of admitting evidence of attempted suicide by determining whether it is relevant to a fair inference of conscious *and* actual guilt and, if so, whether any of the recognized rules of exclusion would bar its admission.

I. SUICIDE AND PSYCHOLOGY

In Anglo-American society suicide has been generally condemned.¹⁷ No doubt a good deal of its historic unpopularity stems from religious disfavor, but of great importance, also, has been the general lack of understanding concerning the psychology of the suicidal act. It is not surprising that courts have looked upon self-destruction as a reasonable extension of the criminal personality. In fact, this uncomplicated view finds support among psychologists. Menninger has portrayed the suicidal personality as involving three elements: 1) the wish to kill; 2) the wish to be killed; and 3) the wish to die.¹⁸ So it might be argued that the accused who attempts to take his own life is exhibiting a criminal tendency that vividly connects him with the act for which he is being tried, at least in the case of a homicide.¹⁹ Instead of submitting the fact of attempted suicide to the jury as evidence of criminal tendency, however, the judge employs more specific, if less understandable, language of "guilt" or "fear of punishment."²⁰ The psychologist also speaks of fear and guilt but acknowledges that the stimuli he is concerned with are

16. [T]he judge may in his discretion exclude evidence if he finds that its probative value is substantially outweighed by the risk that its admission will (a) necessitate undue consumption of time, or (b) create substantial danger of undue prejudice or of confusing the issues or of misleading the jury, or (c) unfairly and harmfully surprise a party who has not had reasonable opportunity to anticipate that such evidence would be offered. UNIFORM RULES OF EVIDENCE 45.

17. See WINSLOW, *THE ANATOMY OF SUICIDE* 36-44 (London 1840). Attempted suicide is still considered a crime in England, and some American jurisdictions punish conspirators in suicide as murderers. Recently, however, a few writers have begun to explore the possibility that man has an inherent right to take his own life. WILLIAMS, *THE SANCTITY OF LIFE AND THE CRIMINAL LAW* 273, 299 (1957).

The common law crime of suicide derived from the Roman law, which punished those who made an abortive attempt prior to conviction. Since under both systems an accused could escape penalties of forfeiture by evading a final judgment, suicide amounted to a problem of some proportion. Thus the presumption of guilt of the offense charged was formulated and punishment was imposed upon that offense rather than on the attempted suicide. This presumption did not endure in the common law, however, and was replaced by the English law treating the attempt itself as a felony. SHNEIDMAN & FARBEROW, *CLUES TO SUICIDE* 81 (1958).

18. MENNINGER, *MAN AGAINST HIMSELF* 26-80 (1938) (hereinafter cited as MENNINGER).

19. Menninger has also postulated that suicide is sometimes based upon the narcissistic desire to kill oneself instead of being executed by others. *Id.* at 70; Note, 105 U. PA. L. REV. 391, 396 (1957).

20. See case cited note 6 *supra*.

hidden in the unconscious of the subject, or are confused with a multiplicity of other motivations, so that no one factor can safely be viewed alone.²¹

A. Guilt

Psychologists rarely find that an attempted suicide was motivated by a sense of conscious guilt in connection with a crime.²² At least one recent project, however, offers a slight exception to this general trend.²³ In 1957 a comprehensive study resulted in the classification and diagnosis of a large number of attempted suicide victims. The subjects were arranged in five diagnostic areas: manic depressive, chronic alcoholism, conversion reaction, undiagnosed and sociopathic personality. Seven per cent of the individuals classified as sociopathic admitted that legal prosecution offered the immediate stimulus for their suicidal act. In addition, 14% of the undiagnosed category and 13% of the sociopathic patients spoke of legal difficulties within the six-month period prior to the attempt as a "disturbing event" or "symptom."²⁴ However, these figures did not move the researchers to conclude that legal difficulties afforded a prime reason for suicide: "Psychiatrically well (normal) persons never or very rarely make suicide attempts, regardless of the severity of the social stresses to which they are subjected."²⁵ Any verification the project lends to the legally implied relationship between attempted suicide and true guilt may be further discounted because the study does not disclose what portion of the subjects examined were *actually* guilty of the crime charged. This element must be satisfied before a valid relationship can be proved.

21. "Actively suicidal depressed patients rarely can give a rational reason for seeking death; the true motives conserve their power by remaining concealed in the unconscious." Fisch, *The Suicidal Gesture: A Study of 114 Military Patients Hospitalized Because of Abortive Suicide Attempts*, 111 AM. J. PSYCHIATRY 33, 36 (1954). See BOSSELMAN, SELF-DESTRUCTION ix (1958) [hereinafter cited as BOSSELMAN].

22. None of the following studies, despite their size and thoroughness, found any connection between attempted suicide and a criminal act: Piker, *1817 Cases of Suicide Attempt: A Preliminary Statistical Survey*, 95 AM. J. PSYCHIATRY 97, 113 (1938); Hendin, *Attempted Suicide: A Psychiatric and Statistical Study*, 24 PSYCHIATRIC Q. 39, 42-43 (1950) (500 cases); Hendin, *Psychodynamic Motivational Factors in Suicide*, 25 PSYCHIATRIC Q. 672 (1951) (100 cases). See also WILLIAMS, THE SANCTITY OF LIFE AND THE CRIMINAL LAW 296 (1957).

23. Robins, Schmidt & O'Neal, *Some Interrelations of Social Factors and Clinical Diagnosis in Attempted Suicide: A Study of 109 Patients*, 114 AM. J. PSYCHIATRY 221-31 (1957).

24. *Id.* at 225, 226.

25. *Id.* at 230. Referring to this study, another commentator has noted its failure to isolate causes for the suicidal attempt. The inference is that no one cause is likely to be determinative. Weiss, *The Gamble with Death in Attempted Suicide*, 20 PSYCHIATRY 17, 18 (1957).

While the psychological studies do not suggest a connection between the fact of attempted suicide and the reality of guilt of a specific crime, they do reveal that the guilt complex can be a cause of suicide.²⁶ Therefore, since legal relevancy requires only common sense probability, not demonstrable certainty,²⁷ it would perhaps be permissible to assume that true guilt might inspire an act of self-destruction. Psychologists contend, however, that the assumption is true only if the accused is "suicide prone."²⁸

It would seem reasonable that a valid relationship between the commission of a serious crime and a subsequent suicide attempt would indicate a high number of homicide-suicide incidents, but such is not the case. Wolfgang reports that the "proportion of homicide-suicide cases among the total homicide offenders appear to be universally low in this country."²⁹ Furthermore, the reason popularly advanced for such incidents when they do occur is not founded in any theory of conscious guilt, fear or depression. Rather, it is suggested that the offender views the murder and suicide as part of the same act.³⁰ When the attempt occurs soon after the homicide, however, Cavan suggests that the "guilt hypothesis" may bear great relevance:

The guilt hypothesis suggests that following his killing of another person, the individual may suffer such a threat to his self-esteem that he feels the only way to demonstrate the hatred society should inflict upon him is to kill himself. Suicide thus becomes a means of showing his agreement with the social norms which he has long ago internalized.³¹

This theory comes closest to vindicating the legal view of relevancy because it clearly identifies *actual* guilt with the act of suicide and thus provides the justification for assuming guilt. However, when applied to cases of attempted suicide, the theory loses much of its importance. In the first place

26. The suicidally disposed person has been viewed as victimized by recurring cycles of transgression and remorse which gradually increase in significance from his point of view but not from that of society. FENICHEL, *THE PSYCHOANALYTIC THEORY OF NEUROSIS* 294 (1945). Cf. Bunzel, *Suicide*, 14 *THE ENCYCLOPEDIA OF SOCIAL SCIENCES* 455 (1934); BOSSELMAN 57 (1958).

The extreme power of the guilt complex is examined by Menninger, who relates the case history of a young woman driven to "psychological blindness" after the death of her brother. It was discovered that she had been extremely jealous of him during childhood and that his death served as a constant reminder of her former transgressions. MENNINGER at 367-68.

27. MICHAEL & ADLER, *THE NATURE OF JUDICIAL PROOF* 73 (1931); 1 WIGMORE, *EVIDENCE* § 11 (3d ed. 1940).

28. BOSSELMAN 93-94; Bunzel, *Suicide*, 14 *THE ENCYCLOPEDIA OF SOCIAL SCIENCES* 455 (1934); Robins, Schmidt & O'Neal, *Some Interrelations of Social Factors and Clinical Diagnosis in Attempted Suicide: A Study of 109 Patients*, 114 *AM. J. PSYCHIATRY* 230 (1957).

29. WOLFGANG, *PATTERNS IN CRIMINAL HOMICIDE* 273 (1958).

30. *Id.* at 274; CAVAN, *SUICIDE* 262 (1928).

31. WOLFGANG, *PATTERNS IN CRIMINAL HOMICIDE* 276 (1958).

neither Cavan nor Wolfgang have extended the doctrine of "guilt hypothesis" to cases of successful suicide occurring at a period substantially later than the crime; nor have they included attempted suicide in its definition. While the first factor may be an unintentional omission, the second conforms to the idea of "multiple motivation."³² That the latter is the likely reason for the failure is further shown by the fact that many acts of attempted self-destruction are classified as requests that the world take cognizance of the victim's pitiful condition.³³

Nevertheless, the close proximity of an attempted suicide to the alleged crime would seem to suggest a calculable inference of guilt. In *State v. Plunkett*,³⁴ the defendant was found suffering from a dangerous, self-inflicted wound in the same room with the battered body of his young child. There would appear every reason to infer a logical relationship between the homicide and the attempt. Moreover, the guilt hypothesis could be applied since the suicidal act was apparently a sincere one. The court, commenting on the fact of proximity, concluded that "the act of self-destruction was so clearly connected with the killing of the child as to constitute it a part of the *res gestae*."³⁵ All other American cases have dealt with suicide attempts occurring after arrest and, usually, during confinement.³⁶

B. Fear

American courts defend the admission of suicide attempts in terms of the defendant's fear as well as of guilt.³⁷ The question arises: of what is the accused afraid? The courts would answer "punishment for his crime," while the psychologist would be more likely to restrict his answer to "punishment." Inherent in this restriction is the view of suicide as the product of mental unbalance or a lifetime of accumulated provocations.³⁸ Not only do some

32. MENNINGER 82; BOSSELMAN ix.

33. BOSSELMAN 31.

34. 62 Nev. 265, 149 P.2d 101 (1944).

35. *Id.* at 280, 149 P.2d at 108. (Emphasis added.)

36. However, the lapse of time between the alleged crime and the attempt at self-destruction has not altered judicial determination to admit the evidence. In *Commonwealth v. Giacobbe*, 341 Pa. 187, 19 A.2d 71 (1941), the defendant was charged with murder six years after the suspicious death of her husband. The defense proved that during the intervening years the wife had experienced delusions of her "rising husband" and had resorted to treatment by a faith healer. The court admitted both the evidence of mental unrest and a post-arrest attempt at suicide as evidence of guilt!

37. *Id.* at 193, 19 A.2d at 74. Some courts use the term "attempt to escape punishment." *People v. Duncan*, 261 Ill. 339, 103 N.E. 1043 (1913); *State v. Jagers*, 71 N.J.L. 281, 58 Atl. 1014 (1904).

38. Suicide resulting from fear has been characterized as an "impulsive riddance of an cummulation of unbearable fear. . ." Hendin, *Suicide*, 30 *PSYCHIATRIC Q.* 267, 278-79 (1956). Unlike normal persons, the suicidally disposed individual does not or

people live in a state of constant fear, but suicidal persons unconsciously desire punishment.³⁹ In this light, the attempted suicide of the accused would probably prove nothing more to the psychologist than the fact of suicidal tendency.

C. *Humiliation*

Two American cases have created a causal chain relating the suicide attempt to actual guilt through the defendant's humiliation.⁴⁰ In *People v. Duncan*, the court reasoned, "it is undoubtedly true that one guilty of the charge might prefer to avoid the humiliation and disgrace of a conviction and escape the punishment imposed by law by taking his life, just as he might seek to accomplish the same result by flight or escape from custody."⁴¹ It is generally recognized that humiliation or loss of prestige can contribute to the act of self-destruction, as was demonstrated by the many self-inflicted deaths during the depression.⁴² Psychologists would hardly agree, however, that the loss of prestige need be based on any objectively substantial failure or humiliating incident. Menninger points out that in suicidally inclined persons there is an enormous overdevelopment of the conscience which places "inexorable and inflexible" demands on them.⁴³ Scores of individuals have attempted or succeeded in taking their own lives after minor embarrassments or failures that would appear substantial only when measured in terms of that individual's immature or warped sense of values.⁴⁴ Thus the logic of the courts is again opposed by the scientist, and the pattern of disagreement is clear: to the psychologist no perfectly normal person would attempt suicide and the person who does is moved by such a myriad of possibilities that it would be entirely unrealistic to assign any one cause.

cannot make the distinction between those things "which society really does punish and acts for which one expects punishment only because of a childhood misapprehension. . . ." MENNINGER 342.

39. This fact was first suggested by Freud, who maintained that suicide was a desertion of the ego by the superego. FREUD, *MOURNING AND MELANCHOLIA* 252 (1938). The theory has since been expanded by Menninger, who characterized suicide as finally involvements of the desire to kill, to be killed, and to die as discussed in the text, page 206, *supra*. MENNINGER 82. The vital inconsistency between death as a means of punishment and death as an escape from punishment is obvious. (See text accompanying note 2 *supra*). This same argument was presented in the case of *People v. Duncan*, 261 Ill. 339, 103 N.E. 1043 (1913). The court answered that suicide "was not the action . . . expected of an innocent man." *Id.* at 353, 103 N.E. at 1049.

40. *People v. Duncan*, 261 Ill. 339, 103 N.E. 1043 (1913); *State v. Lawrence*, 196 N.C. 562, 146 S.E. 395 (1929).

41. *People v. Duncan*, 261 Ill. 339, 353, 103 N.E. 1043, 1049 (1913).

42. See SHNEIDMAN & FARBEROW, *CLUES TO SUICIDE* 66 (1958), for an interesting discussion of "suicide and the business cycle."

43. MENNINGER 53.

44. See, e.g., WINSLOW, *THE ANATOMY OF SUICIDE* 283-330 (1840); *New Reasons for Suicide*, 74 *CURRENT OPINION* 728 (1923).

II. THE VIEWS CONTRASTED

The precise manner in which American courts apply their understanding of the suicide attempt to the question of admissibility, and the consequent disagreement between the legal and psychological views, can be seen in the following two cases. In *State v. Lawrence*,⁴⁵ the court justified the admission of the accused's attempted suicide in the following manner:

[The] defendant was sui juris—a man of mental and physical vigor, *perfectly normal*. He had been leading a double life, his trial was on, he could not stand the humiliation and disgrace, and, in his endeavor to escape the punishment he anticipated from the evidence adduced, he attempted to kill himself.⁴⁶

This conclusion is clearly contradicted by modern psychological studies of suicide. Almost without exception, the authorities agree that no "perfectly normal" person ever attempts to take his own life,⁴⁷ and further that the act itself is the result of an accumulation of circumstances set off at times by an immediate stimulus but, as often as not, the result of a "logical" determination to escape from situations, real or imagined, which he can no longer control.⁴⁸ If this be true, the court's conclusion in the *Lawrence* case amounted to an unwarranted inference that actual guilt was the prime factor affecting the defendant's action.

In *State v. Painter*,⁴⁹ the Missouri Supreme Court recognized the doubtful relation between fear or guilt and the defendant's attempt at suicide but still adopted the majority view. It justified the admission of the evidence on the ground that "it was a circumstance which might properly be proved and taken into consideration by the jury in connection with all other facts and circumstances proven."⁵⁰ This opinion, then, like all the others, indicated a satisfaction with the legal relevance of the evidence, but failed to discuss any exclusionary rules which might bear on the question of admission. This is the present state of case law.

CONCLUSION

While psychologists are largely in agreement that no mentally well person attempts suicide, there is much evidence to support the claim that some

45. 196 N.C. 562, 146 S.E. 395 (1929).

46. *Id.* at 578, 146 S.E. at 403. (Emphasis added.)

47. While suicidally inclined persons may or may not be mentally ill in the medical meaning of that term, they are not mentally well. BOSSELMAN 56.

48. BOSSELMAN 56.

49. 329 Mo. 314, 44 S.W. 2d 79 (1931).

50. *Id.* at 323, 44 S.W. at 82. Where the defendant presents reasons for his attempt at self destruction which are inconsistent with an inference of guilt, the courts do not exclude the evidence but by the quoted instruction leave the matter for the jury to weigh.

event or circumstance affords the immediate stimulus for the act.⁵¹ Since guilt, fear and humiliation are prime motivating factors, it is not patently illogical to assume that any one or a combination of them might produce a suicidal attempt by an individual susceptible to self-destruction. However, careful consideration reveals more difficult problems. For example, is fear evidence of legal guilt? If the source of this prime motivating factor cannot be located, it is surely unfair to take the next step and argue that its result is admissible. Do conscious guilt or humiliation evidence legal guilt when considered apart from the act they produce? Guilt, as previously indicated, is likely to be unconscious in a suicidal personality, and has been characterized as the result of years of mental unbalance rather than the product of one determinative circumstance.⁵² Humiliation is evidentially the weakest of these three because the public disgrace connected with criminal arrest and trial is present whether the party is guilty or innocent. In short, the accused may feel guilty, fearful or depressed, and his mental frame may impel him toward the act of self-destruction; but the causal connection between the legal crime and the personal, moral conviction which leads to the attempt is not evident. Nevertheless, the test of legal relevance is not a strict one.⁵³ To require that the courts make a thorough, case by case analysis in order to determine relevance would, in some cases, call for a lengthy and subjective probe into the scientific intricacies of the suicidal disposition. It seems preferable to recognize that the correlation between true guilt and an attempt will sometimes satisfy a common-sense probability and in other instances will clearly fall short.

The real test should come when the fact of attempted self-destruction is weighed against the rules of exclusion.⁵⁴ At that point the possible relationship between consciousness of guilt and actual guilt should be balanced against the grave possibility that admission of the evidence would unduly prejudice the defendant. Of primary concern here must be the historic religious and moral objection to suicide and the resulting contempt with which society has viewed the suicidal individual.

In cases where attempted suicide occurs at or near the scene and before the publication of the alleged crime, it could be argued that the only substantial motivation is actual guilt, since the subject has not yet been faced with the reality of public disgrace. However, even this argument is not clearly applicable in all cases. For example, if the subject believes he will be suspect in any event, or if he is truly suicide prone so that his motivations

51. See authorities cited note 28 *supra*.

52. See authorities cited note 32 *supra*.

53. See authorities cited note 27 *supra*.

54. See note 16 *supra*.

cannot be reliably charted, or if the attempted suicide occurs upon the discovery of a loved one's death,⁵⁵ the possible prejudice caused by admission of the attempt would clearly outweigh its probative value. In other words, should a party who is a natural suspect anyway suffer the added burden of an inference of guilt that is doubtful at best? The answer is obvious. So tenuous is any connection between attempted suicide and actual guilt that evidence of the act should be excluded in all cases.

55. SHNEIDMAN & FARBEROW, CLUES TO SUICIDE 102, 147 (1958); Hendin, *Suicide* 30 *PSYCHIATRIC Q.* 267, 276 (1956).